

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/954-797-1101.

Prepared by: Ingrid Allen, Planner I

**SUBJECT:** Resolution, Interlocal Agreement with Broward County

**AFFECTED DISTRICT:** Townwide

**TITLE OF AGENDA ITEM:**

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE RELATING TO THE MONITORING OF DEVELOPMENT ACTIVITY AND ENFORCEMENT OF PERMITTED LAND USES IN THE REGIONAL ACTIVITY CENTER; TO ACKNOWLEDGE SUCH AGREEMENT BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The Town of Davie Regional Activity Center - South Florida Educational Regional Activity Center (RAC) has specific permitted land use intensities and densities. The above mentioned agreement requires the Town to monitor development activity and to enforce permitted land use densities within the RAC consistent with the effective land use plan as certified by the Broward County Planning Council and to submit quarterly reports to the Council regarding monitoring and enforcement activities within the RAC. Town Council previously approved a similar resolution and signed the interlocal agreement in 2002. However, this item was not acted upon by Broward County Board of County Commissions and a new resolution and interlocal agreement is required.

**PREVIOUS ACTIONS:** On August 21, 2002, Town Council adopted a resolution (No. R-2002-198) to enter into an Interlocal agreement with Broward County relating to the monitoring of development activity within the RAC.

**CONCURRENCES:** None

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff recommends that Town Council approve the Resolution.

**Attachment(s):**

1. Proposed Resolution and Interlocal Agreement

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF DAVIE AND BROWARD COUNTY RELATING TO THE MONITORING OF DEVELOPMENT ACTIVITY AND THE ENFORCEMENT OF PERMITTED LAND USES WITHIN THE TOWN OF DAVIE'S REGIONAL ACTIVITY CENTER; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the South Florida Educational Regional Activity Center (RAC) is located in the Town of Davie; and

WHEREAS, the density and intensity of land uses permitted within the RAC is specified within the Broward County Land Use Plan; and

WHEREAS, the agreement requires the Town to monitor development activity and to enforce permitted land use densities and intensities with the RAC consistent with the effective land use plan as certified by the Broward County Planning Council and to submit quarterly reports to the Broward County Planning Council setting forth its monitoring and enforcement activities with the RAC; and

WHEREAS, the Town agrees to said requirements regarding the RAC.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, attached hereto as Exhibit "A", between Broward County and the Town of Davie, whereby the Town of Davie shall monitor development activity and submit quarterly reports regarding permitted land use densities and intensities with the RAC.

SECTION 2. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

Attest:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.

Return recorded document to:

Sharon L. Cruz, Deputy County Attorney  
Broward County Attorney's Office  
115 S. Andrews Avenue, Rm 423  
Ft. Lauderdale, FL 33301

Document prepared by:

Sharon L. Cruz, Deputy County Attorney  
Broward County Attorney's Office  
115 S. Andrews Avenue, Rm 423  
Ft. Lauderdale, FL 33301

INTERLOCAL AGREEMENT FOR THE  
MONITORING OF DEVELOPMENT ACTIVITY AND  
ENFORCEMENT OF PERMITTED LAND USES  
IN REGIONAL ACTIVITY CENTER

This is an Interlocal Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

TOWN OF DAVIE, a Florida municipal corporation, created and existing under the laws of the state of Florida, hereinafter referred to as "TOWN."

WHEREAS, this Agreement is entered into pursuant to § 163.01, Florida Statutes, also known as the "Florida Interlocal Cooperation Act of 1969"; and

WHEREAS, it is the purpose and intent of the parties to this Interlocal Agreement, to permit COUNTY and TOWN to make the most efficient use of their respective powers, resources and capabilities by enabling them to cooperate on the basis of mutual advantage and thereby accomplish the objectives provided for herein in the manner that will best accord with the existing resources available to each of them and with the needs and developments within their respective jurisdictions; and

WHEREAS, the density and intensity of land uses permitted within each Regional Activity Center (RAC) is specified within the Broward County Land Use Plan; and

WHEREAS, TOWN has the South Florida Educational Regional Activity Center (RAC) within its jurisdiction; and

WHEREAS, TOWN and COUNTY wish to provide that the monitoring of development activity and the enforcement of permitted land uses shall be the responsibility of TOWN, NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, COUNTY and TOWN agree as follows:

ARTICLE 1  
BACKGROUND; PURPOSE AND INTENT

- 1.1 The above recitals are true and correct and incorporated herein as if set forth in full hereunder.
- 1.2 It is the purpose and intent of this Interlocal Agreement for COUNTY and TOWN, pursuant to Section 163.01, Florida Statutes, to cooperate and provide for a means by which each governmental entity may exercise its respective powers, privileges and authorities which

they share in common and which each might exercise separately in order to further a common goal.

## ARTICLE 2 MONITORING OF DEVELOPMENT ACTIVITY

- 2.1 TOWN agrees to monitor development activity and to enforce permitted land use densities and intensities within the RAC consistent with the effective land use plan as certified by the Broward County Planning Council.
- 2.2 TOWN agrees to submit quarterly reports to the Broward County Planning Council setting forth its monitoring and enforcement activities within the RAC to enable COUNTY to ensure that the density and intensity of land uses within the RAC are being complied with by TOWN.

## ARTICLE 3 INDEMNIFICATION

TOWN is a state agency as defined in Chapter 768.28, Florida Statutes, and COUNTY is a political subdivision of the State of Florida. Each agrees to be fully responsible for acts and omissions of their elected officials, agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.

## ARTICLE 4 MISCELLANEOUS

- 4.1 Joint Preparation: The preparation of this Interlocal Agreement has been a joint effort of the parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 4.2 Entire Agreement and Modification: This Interlocal Agreement incorporates, supersedes and includes all prior negotiations, correspondence, conversations, agreements or understanding applicable to the matter contained herein. It is further agreed that no change, alteration or modification in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- 4.3 Records: In accordance with the Public Records Law, TOWN agrees to permit COUNTY to examine all records and grants COUNTY the right to audit any books, documents and papers that were generated during the course of administration of the "Site". TOWN shall maintain the records, books, documents and papers associated with this Interlocal Agreement in accordance with the Public Records Act.
- 4.4 Recordation/Filing: This Agreement shall be recorded in the public records of Broward County, in accordance with the Florida Interlocal Cooperation Act of 1969.
- 4.5 Default: In the event of any default or breach of any of the terms of this Interlocal Agreement, it is specifically acknowledged and agreed that either party shall, in addition to all other remedies which may be available in law or equity, have the right to enforce this Interlocal Agreement by specific performance, injunctive relief, prohibition or mandamus to compel the other party to abide by the terms of this Interlocal Agreement.
- 4.6 Notices: Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the

provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR COUNTY:

Administrator  
Broward County Planning Council  
115 S. Andrews Avenue, Rm. 307  
Fort Lauderdale, Florida 33301-4801

FOR TOWN:

- 4.7 Choice of Law; Waiver of Jury Trial: Any controversies or legal problems arising out of this transaction and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each party hereby waives any rights it may have to a trial by jury of any such litigation.
- 4.8 Conflict: In the event that this Interlocal Agreement conflicts with any other agreement pertaining to the monitoring of development activity and the enforcement of the density or intensity of permitted land uses within the RAC, TOWN and COUNTY agree that the terms and conditions contained in this Interlocal Agreement shall prevail.
- 4.9 Counterpart Originals: The parties agree that this Agreement may be executed in counterparts, and that collectively the counterparts shall be considered an original agreement and shall be deemed legally sufficient and binding upon the parties.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have made and executed this Interlocal Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair or Vice Chair, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and TOWN of DAVIE signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its  
BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
County Administrator and  
Ex-Officio Clerk of  
the Board of County  
Commissioners of Broward  
County, Florida

By \_\_\_\_\_  
Chair

\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Approved as to form by  
Office of County Attorney  
Broward County, Florida  
EDWARD A. DION, County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-6968

By \_\_\_\_\_  
Sharon L. Cruz  
Deputy County Attorney

INTERLOCAL AGREEMENT FOR MONITORING OF DEVELOPMENT ACTIVITY AND  
ENFORCEMENT OF PERMITTED LAND USES IN REGIONAL ACTIVITY CENTER

TOWN

WITNESSES: TOWN OF DAVIE

\_\_\_\_\_  
By \_\_\_\_\_  
Mayor-Commissioner

\_\_\_\_\_  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:  
\_\_\_\_\_  
TOWN Clerk TOWN Manager

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(CORPORATE SEAL)  
APPROVED AS TO FORM:

TOWN ATTORNEY